

REMARKS

The present Amendment is submitted to provide a further distinction in claim 1 over the teachings of the Edelstein reference, relied upon as a basis for rejecting claim , and the claims depending therefrom, under 35 U.S.C. §102(b). Even if the Examiner's interpretation of the "element beginnings" and "element ends" in the Edelstein reference is adopted (with which Appellants disagree), there clearly is no radially directed current which flows in each antenna element between the element end thereof and the element beginning thereof, as set forth in the language added in claim 1.

Entry of the present Amendment is justified after the Final rejection because the Edelstein reference was generally cited by the Examiner in the first Office Action, dated November 7, 2001, but was not relied upon as a basis for rejecting any claim of the application. It was only in the Final rejection that the Examiner relied on the Edelstein reference as a basis for rejecting any claim. Therefore, Appellants have never had an opportunity to respond to any rejection based on the Edelstein reference, and therefore this claim amendment could not have been earlier submitted.

Simply because the Edelstein reference was among a large number of references which were generally cited in the First Office Action does not impose any obligation on the Appellants to "guess" that one or more of those references might be relied upon in a Final rejection, and therefore the mere presence of the Edelstein reference as being among the references cited in the First Office Action does not justify the use of the Edelstein reference, for the first time, to formulate a final rejection, since until receiving that Final rejection, the Appellants have no basis to

know the manner by which the Examiner intends to apply, or might intend to apply, the Edelstein reference.

Entry of the present Amendment in this "After Final" stage of prosecution is therefore proper under 37 C.F.R. §1.116, and the same is respectfully requested.

Submitted by,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Twice Amended) A nuclear magnetic resonance antenna comprising:

a plurality of antenna elements, each antenna having an element beginning and an element end;

said antenna elements being disposed radially relative to a center axis so as to proceed outwardly from the respective element beginnings to the respective element ends to allow a radially directed current flow in each antenna element between the [respective] element [ends] end thereof and the element beginning thereof, and exhibiting cyclical symmetry from antenna element to antenna element;

said antenna elements being at least magnetically coupled with each other; and

said plurality being at least five.